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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,692	01/22/2004	Richard A. Daley	3581.1000-001	5256
21005	7590	09/09/2004		
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133				
			EXAMINER GRAHAM, MARK S	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,692

Applicant(s)

DALEY, RICHARD A.

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 9-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster.

Regarding claims 9 and 12, Foster discloses the claimed device with the exception of the diameter. However, it would have been obvious to one of ordinary skill in the art to have used a regulation golf hole diameter to best simulate an actual golf hole.

With regard to claim 10, note Col. 4 of Foster which indicates that a sticky adhesive may be used. The examiner takes official notice that such adhesives are commonly provided with a removable cover to preserve the adhesive properties until use is desired. It would have been obvious to one of ordinary skill in the art to have done the same with Foster's adhesive for the same reason.

Concerning claim 11, the claimed materials are commonly known and would have been suitable for Foster's purpose depending on which material was most readily available to the ordinarily skilled artisan.

Regarding claim 13, absent a showing of unexpected results the exact thickness of Foster's device would obviously have been up to the ordinarily skilled artisan depending on the amount of resistance to the golf ball which was desired.

With respect to claim 14, inherently a ball will only adhere to the top surface of Foster's target when it is putted at the correct speed to achieve adherence.

With regard to claim 15, it would have been obvious to one of ordinary skill in the art to have provided more than one target if it was desired to provide additional playing opportunities for the player. How such a device was used (for example to cover a first member as claimed) is not at issue.

Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster in view of Kamal. Foster discloses the claimed device with the exception of the housing and hole size. However, with regard to the housing, as disclosed by Kamal such housings are known in the art. It would have been obvious to one of ordinary skill in the art to have provided Foster's game with such a housing as well for storage purposes.

Regarding the hole size Foster discloses the claimed device with the exception of the diameter. However, it would have been obvious to one of ordinary skill in the art to have used a regulation golf hole diameter to best simulate an actual golf hole.

With regard to claim 23, note Col. 4 of Foster which indicates that a sticky adhesive may be used. The examiner takes official notice that such adhesives are commonly provided with a removable cover to preserve the adhesive properties until use is desired. It would have been obvious to one of ordinary skill in the art to have done the same with Foster's adhesive for the same reason.

Concerning claim 21, the claimed materials are commonly known and would have been suitable for Foster's purpose depending on which material was most readily available to the ordinarily skilled artisan.

Regarding claim 22, absent a showing of unexpected results the exact thickness of Foster's device would obviously have been up to the ordinarily skilled artisan depending on the amount of resistance to the golf ball which was desired.

With respect to claim 24, inherently a ball will only adhere to the top surface of Foster's target when it is putted at the correct speed to achieve adherence.

Claims 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyt in view of Foster. Hoyt discloses the claimed device with the exception of adhesive surface and hole size. Regarding the hole size it would have been obvious to one of ordinary skill in the art to have used a regulation golf hole diameter to best simulate an actual golf hole. Concerning the adhesive it is known in the art to provide adhesive on the putting target as disclosed by Foster. It would have been obvious to one of ordinary skill in the art to have used adhesive on the surface of the larger circular member to help retain a ball within the target.

With regard to claim 30, note Col. 4 of Foster which indicates that a sticky adhesive may be used. The examiner takes official notice that such adhesives are commonly provided with a removable cover to preserve the adhesive properties until use is desired. It would have been obvious to one of ordinary skill in the art to have done the same with Foster's adhesive for the same reason.

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Concerning claim 28, the claimed materials are commonly known and would have been suitable for Foster's purpose depending on which material was most readily available to the ordinarily skilled artisan.

Regarding claim 29, absent a showing of unexpected results the exact thickness of Foster's device would obviously have been up to the ordinarily skilled artisan depending on the amount of resistance to the golf ball which was desired.

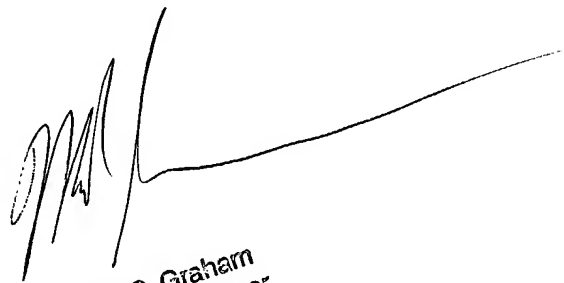
With respect to claim 31, inherently a ball will only adhere to the top surface of Foster's target when it is putted at the correct speed to achieve adherence.

Claims 1-8 are allowed.

Mosier et al., Criger, Brown, Peabody, Durso, Kehoe, Nunes, Karl, and Schultz et al. have been cited for interest because they disclosed similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
9/2/04



Mark S. Graham
Primary Examiner